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FEDERAL COMMUNICATIONS COMMISSION
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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

IN THE MATTER OF

REVISIONS OF PART 22 OF THE COMMISSION'S RULES
GOVERNING THE PUBLIC MOBILE SERVICES

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) CC DOCKET No. 92-115
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Comments
of the
Cellular Telecommunications Industry Association

1. The Cellular Telecommunications Industry Association ("CTIA") is the trade association of the cellular industry. Its members include over 90% of the licensees providing cellular service to the United States and Canada. CTIA's membership also includes cellular equipment manufacturers, support service providers, and others with an interest in the cellular industry. On May 14, 1992, the Commission adopted a Notice of Proposed Rulemaking in the above-captioned proceeding. Revision of Part 22 of the Commission's Rules Governing the Public Mobile Services, Notice of Proposed Rulemaking, CC Docket No. 92-115, FCC 92-205, 7 FCC Rcd 3658, released: June 12, 1992 ("NPRM"). The NPRM seeks public comment on a reorganization and revision of the Commission's rules applied to cellular telecommunications, which is the reason for the submission of the instant comments.

2. In response to the NPRM, CTIA and Telocator jointly sponsored a public forum on September 18, 1992, to discuss the issues raised in the proceeding. This forum assisted both

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the Commission's staff and the representatives of the wireless telecommunications industry to develop a better appreciation of the impact and implications of some of the proposed changes. The discussions at the forum underscored that the proposed revisions to Part 22 will enable the cellular industry and the Commission to continue working together to provide the American people with the best mobile telecommunications service in the world. For this reason CTIA supports the proposed changes, which need little comment beyond that required to acknowledge the Commission's success in drafting proposals that represent a significant advance in the regulatory framework for cellular.

3. The proposals eliminate duplicative and unnecessarily burdensome regulations, while preserving the Commission's ability to safeguard the public interest. Once adopted, the proposed rule changes will improve the ease and efficiency of complying with the Part 22 regulations as well as facilitate the FCC's legitimate oversight of the cellular industry's operations. While CTIA enthusiastically supports the proposed changes, a few technical matters are addressed below.

II. Part 22 Rules in General

A. FAA Coordinates: Proposed Rule §22.115(a)(4)

4. Based on a convention adopted in 1983 ("NAD83"), the FAA has adopted a new method of calculating geographic coordinates of tower and antenna sites.¹ The Commission, however, has proposed that licensees use methods established under the earlier 1927 convention ("NAD27") on all FCC applications. Therefore, the coordinates used on licensees' FCC applications will differ from the coordinates reported to the FAA pursuant to the FAA's rules

¹ See Proposed Rule §22.115(a)(4).

that require advance notification of new tower and antenna sites.

5. The Part 22 Rewrite is intended to address precisely this type of problem. Since the Commission's Antenna Survey Branch returns applications when their coordinates do not match the ones provided to the FAA, the proposed rule will require licensees and the Commission staff to calculate an unneeded and duplicative set of coordinates where only one set, based on the NAD83 convention, will suffice. Also, because the NAD83 coordinate standards will be used more frequently, they mistakenly may be used in FCC applications, creating potentially significant errors in the Commission's records and data base.

6. While the Commission should adopt the more recent NAD83 coordinate standards, the timetable for adopting NAD83 is beyond the scope of the instant proceeding.² In the meantime, as part of the revisions to Part 22, the Commission should modify its rules to provide a space on its forms for two sets of coordinates, one under NAD27 and another under NAD83. This would simplify the Commission's ability to verify the information provided to the FAA and ease the way for the Commission's conversion to NAD83 later.

B. Microfiche Copies: Proposed Rule §22.105(d)

7. The Commission's procedures now allow for the filing of the microfiche copy of an application or document within a few days of the filing of the original paper copy. Under proposed rule §22.105(d), this flexibility is lost.

8. The present rule should be continued. Few applicants (or the engineering and law

² The Commission recently announced that it will continue to use NAD27 coordinates for the immediate future but that it will eventually convert to NAD83 at a later time. "The Federal Communications Commission Continues to Require Applicants to Use Coordinates Based on the North American Datum of 1927," FCC Public Notice, DA 92-1188, released September 1, 1992.

firms that represent them) can justify the investment required to procure and operate microfiche equipment. Accordingly, most applicants rely on private contractors to produce the microfiche copies required by the Commission's rules. If these contractors have an equipment failure, or a backlog of work at the time of a filing deadline, it may be impossible for an applicant to provide the necessary copies contemporaneously with the original paper copy. Preserving the flexibility afforded by the current rules would be particularly helpful to the smaller licensees (and smaller firms) who depend on contractors for their microfiche copies, while imposing no new burden on the Commission.³

C. Conditional Grants

9. The NPRM (at ¶11) proposes that the Commission grant applications conditionally based on the assumption that the technical portion of the application is correct. It states that the condition would remain on the license until the expiration of the license term. The conditional grant would allow the Commission to withdraw or cancel a license to remedy interference problems caused by a mistake in the technical portion of an application.

10. It is not clear from the NPRM whether conditional licenses would be issued in cellular. If so, the Commission needs to clarify the manner and circumstances under which a conditional license will be imposed. While the Commission's interest in protecting properly constructed and licensed facilities from interference is crucial to all licensees, the interest must be balanced against the practical impact of a conditional license grant for the entire 10 year license term. If the proposal in the NPRM is adopted, the licensee will not know for the entire

³ Preserving the flexibility on the filing of microfiche copies after original paper copies are filed will not affect the Commission's ability to enforce its filing deadlines. Applicants can still be held to strict deadlines on the filing of the paper originals.

license term whether it has an unfettered authorization. Such uncertainty is not conducive to long term planning and the practical requirements of the business environment in which a licensee must operate. See Review of the Commission's Regulations and Policies Affecting Investment in the Broadcast Industry, 7 FCC Rcd 2654 (1992).

11. A more reasonably balanced alternative that will address the Commission's legitimate interference concerns is a limitation on the length of the conditional license condition to a period of one or two years.

III. Cellular Rules Under Part 22

A. De Minimis Expansion CGSA

12. Under §22.123 on expanding a CGSA (and §§22.164-165 on minor modifications), any change by a licensee that increases a system's CGSA requires a Form 401 to be filed, and triggers the fill-in application procedures. This includes situations where the change may involve a modification of a mile or less due to insignificant adjustments to existing cell site equipment, such as modifying the tilt of an antenna. Strict adherence to these rules will create an unnecessary burden for both the Commission's staff and cellular carriers.

13. The Commission should allow for de minimis expansions of the CGSA in instances of minor adjustments to the cell sites forming the CGSA border. One method would be to use the less formal Form 489 in instances where a carrier makes minor adjustments to a cell site that expands or contracts coverage into a five mile buffer beyond the border of the CGSA. Whatever the method, the Commission needs less formal procedures to address minor changes to CGSAs.

B. Form 489 Filings

14. Based on the Commission's decision in Amendment of Part 22 of the Commission's

Rules to Provide for Filing and Processing of Applications for Unserved Areas in the Cellular Service and to Modify Other Cellular Rules, CC Docket No. 90-6, Second Report and Order, 7 FCC Rcd 2449 (1992), the Commission's clear intent is to require licensees to submit a Form 489 whenever a CGSA is expanded during the first five years of a system's operation. After that period, a Form 489 notification is required only when the CGSA is changed in a way that does not fall within the Commission's rules on unserved areas (i.e., any contraction of the CGSA, or when a modification requires clearance with the FAA). Therefore, licensees are not required to notify the FCC about changes that do not impact the CGSA.

15. The proposed rules that address the need to report a change to a cell site within the CGSA are inconsistent and need to be clarified. For example, in Appendix A of the NPRM, under §22.163, the Commission states that it will offer no interference protection for changes for which it is given no notice. This implies that a cellular licensee needs to continue reporting interior cell changes on Form 489 to be afforded interference protection for interior cells. But if Form 489 is filed for cells comprising a system's outer contours, as required by the rules, a system's outer cells will receive interference protection; it follows that interference protection also must be afforded to the interior cells. Further explanation is required, and the proposed rules must be conformed to the Commission's decision in CC Docket 90-6.

C. Dispatch

16. Proposed Rule Section 22.901(c) prohibits cellular from offering dispatch service. The definition of dispatch services is not included in the rule. The Commission should incorporate the definition of dispatch adopted in Amendments of Parts 2 and 22 of the Commission's Rules to Permit Liberalization of Technology and Auxiliary Service Offerings in

the Domestic Public Cellular Radio Telecommunications Service, 3 FCC Rcd 7033 (1992), i.e., two-way voice communication, normally of not more than one minute's duration, that is transmitted between dispatcher and one or more land mobile stations, directly through a base station, without passing through the mobile telephone switching facilities. 3 FCC Rcd 7043 at ¶77. The definition should make clear that dispatch type communications are permissible as long as the messages pass through a cellular system's switch.

D. Cellular Height/Power Limitations

17. Proposed rule §22.913(b) establishes limits on the antenna height or the ERP of cellular base stations so that a station's service contour does not extend beyond 26 miles. The proposed rule has dropped a provision of the previous rule that provided for an automatic waiver of this limitation upon the consent of a cellular licensee's neighboring systems. The automatic waiver provision should be restored. Such waivers are useful to systems operating in areas with mountainous terrain; and the existing rule properly requires the consent of the neighboring system. Continuation of the provision will not diminish the legitimate rights of any licensee. On the other hand, elimination of the provision will increase the burden on the Commission's staff and cellular carriers with no corresponding benefit.

E. Electronic Serial Numbers

18. Under §22.919 of the proposed rules, the Commission sets forth regulations on the accessibility of the Electronic Serial Numbers ("ESNs") of mobile units. Among other things, the rules require that a mobile transmitter have a "unique" ESN. They also state that the ESN may not be "manipulated in the field."

19. The rule is an excellent proposal that will assist carriers to secure their systems

against fraud. A few ambiguities, however, remain. First, the Commission should make clear that "unique" means that one ESN will not occupy more than one mobile station. This can be clarified by either adding a definition of "unique" to the rule itself, or by the Commission stating in the order adopting the rule what it intends the word to mean.

20. In addition, the terms "manipulated in the field" unintentionally may prohibit factory authorized service centers, unrelated to a product's point of manufacture, from completing legitimate repairs. For this reason, as an alternative to the terms "in the field," we suggest that §22.919(a) be altered to read that ESN manipulation should not be possible "outside a manufacturer's authorized facility."

21. To combat fraud, all mobile units should be able to verify that they are being used in a non-fraudulent manner and that their ESNs have not been altered. The cellular industry has created a system of authentication and authentication algorithms are being incorporated into phones that will appear on the market in the coming year. For this reason, we suggest a subparagraph (d) be added to §22.919 that reads as follows:

- (d) Cellular Mobile Units must comply with the applicable industry standard for authentication.

22. Finally, the proposed rule is also ambiguous as to its application to existing mobile units. To remove any ambiguity, CTIA recommends that the Commission make the rule applicable to all equipment manufactured after the effective date of the proposed rules.

IV. Conclusion.

23. CTIA fully supports the proposals set forth in the NPRM. CTIA believes that the Commission has done an excellent job of proposing changes to its rules that will benefit cellular customers, licensees, and the Commission's staff. CTIA's comments address concerns created

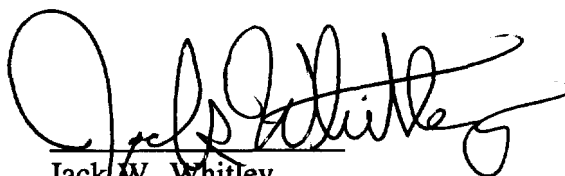
by only a few of the new rules. In each instance, any concern can be addressed by fine tuning the proposed rules, or with a clearer statement of the Commission's intention.

Respectfully Submitted,

Cellular Telecommunications
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